

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

GARY LLOYD MILLER	§	
VS.	§	CIVIL ACTION NO. 1:09-CV-275
DIRECTOR, TDCJ-CID	§	

MEMORANDUM OPINION REGARDING TRANSFER

Petitioner Gary Lloyd Miller, a prisoner confined at the Newton County Correctional Center, proceeding *pro se*, brings this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

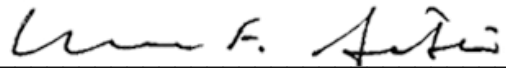
The above-styled action was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636 and the Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Discussion

Title 28 U.S.C. § 2254(a) allows a district court to “entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). A state prisoner is required to file his federal petition for writ of habeas corpus in either the district where the prisoner is incarcerated or the district where the prisoner was convicted and sentenced. 28 U.S.C. § 2241(d). Although both district courts have jurisdiction to entertain the application, “[t]he district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.” *Id.*

Petitioner is currently confined in Newton County. Therefore, this court has jurisdiction to entertain the petition. However, petitioner was convicted and sentenced in Fort Bend County, which is located in the Houston Division of the Southern District of Texas. The court has considered the circumstances and has determined that the interests of justice would best be served if this petition were transferred to the district where petitioner was convicted and sentenced. Therefore, the petition should be transferred to the United States District Court for the Southern District of Texas for hearing and determination. An order transferring the case will be entered by the undersigned.

SIGNED this 8 day of April, 2009.

A handwritten signature in black ink, appearing to read "Keith F. Giblin", written over a horizontal line.

KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE